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## ABSTRACT

Designed for middle school through high school students, this unit contains eight lesson plans that focus on Wisconsin state law. The state lessons correspond to lessons in the volume, "Antidote: Civic Responsibility. Drug Avoidance Lessons for Middle School & High School Students." Developed to be presented by educators, law student, or attorneys, the state lessons are interactive and sequential, although individual lessons can stand alone. The document includes legal information about driving while intoxicated, drug offenses, sentencing, and drug and alcohol statutes written specifically to combat juvenile abuse. (RJC)

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## Antidote: Civic Responsibility

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### Wisconsin Law

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Lesson 1

1. **Has Aimee violated any State laws? Have her parents?**

Aimee has not broken any law, because there is no statute which makes a minor liable for unintentionally dangerous acts toward another minor. Depending on the circumstances, however, the girls' parents may be charged with child neglect, defined under Wis. Stat. Ann. § 48.981(1)(d) as "failure, refusal or inability on the part of a parent, guardian, legal custodian or other person exercising temporary or permanent control over a child, for reasons other than poverty, to provide necessary food, clothing, medical or dental care or shelter so as to seriously endanger the physical health of the child." Child neglect is a Class A misdemeanor under Wis. Stat. Ann. § 948.21 (West 1993). If the child dies as a result of neglect, it is a Class C felony. A Class A misdemeanor is punishable by a fine of up to \$10,000 or imprisonment of up to nine months, or both; a Class C felony is punishable by a fine of up to \$10,000 or imprisonment of up to 10 years, or both. Wis. Stat. Ann. §§ 939.51, 939.50 (West 1993).

2. **Does State statute allow 17-year-old Tyrell to drink a glass of wine with his dinner without his parents' consent?**

Tyrell may drink the wine only if one of his parents is present. Wis. Stat. Ann. § 125.07(4)(b) (West 1993) provides: "[A]ny underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age who knowingly possesses or consumes alcohol beverages is guilty of a violation."

3. **Is Maria violating any law when she tells her roommates whom to call to buy marijuana?**

Whether Maria's actions constitute a crime depends largely on the extent of her involvement with the actual seller of the marijuana. If Maria is merely telling her friends the identity of someone she believes sells marijuana, she is probably not violating any statute. If she is acting to facilitate a drug purchase by her friends, i.e. is a key element in the sale of the marijuana and receives some consideration for her participation, she may be considered to have constructive possession of the drugs and could be charged with possession, even though she does not have physical possession. Wis. Stat. Ann. § 161.41(1m) (West 1993). Conviction for such possession may be punished by a fine of up to \$15,000 or imprisonment for up to five years, or both. If she is involved in this way, she may also be guilty of conspiracy under Wis. Stat. Ann. §§ 161.41(1x) and 939.31 (West 1993). Conspiracy is punishable by imprisonment or fine or both, not to exceed the maximum punishment provided for the completed crime.

If Maria is participating in a drug conspiracy, she may also be violating federal law under 18 U.S.C.A. § 371 (West 1993), which prohibits conspiracy to commit any offense against the United States, and 21 U.S.C.A. § 846 (West 1993), which prohibits any attempt or conspiracy to commit any violation of federal drug control statutes.

4. **Have Adam and Alex broken any laws other than those against drinking and fighting?**

Depending on the circumstances of the fight, Adam and Alex may have committed or may be victims of several crimes, including harassment, a Class B forfeiture defined under Wis. Stat. Ann. § 947.013 (West 1993) as striking, shoving, kicking or otherwise subjecting another person to physical contact or attempting or threatening to do so; recklessly endangering safety in the first or second degree, a Class D or E felony under Wis. Stat. Ann. § 941.30 (West 1993); reckless injury in the first or second degree, a Class C or D felony under Wis. Stat. Ann. § 940.23 (West 1993); battery, a Class A misdemeanor under Wis. Stat. Ann. § 940.19(1) (West 1993); or aggravated battery, a Class C or E felony under Wis. Stat. Ann. § 940.19(1m), (2) (West 1993).

More seriously, the twins may be guilty of second-degree reckless homicide, a Class C felony defined under Wis. Stat. Ann. § 940.06 (West 1993) as recklessly causing the death of another human being. A Class C felony is punishable by a fine of up to \$10,000 or imprisonment of up to 10 years, or both. Wis. Stat. Ann. § 939.50 (West 1993).

If the twins acted in self-defense and did not provoke the attack on them, their use of force in self-defense against Joe may be justifiable, in which case they may not be guilty of any crime. Wis. Stat. Ann. § 939.48 (West 1993).

5. **Has Jose violated any State law even though he is not drinking? Has Carlos or TJ violated any State law?**

Jose is violating several laws. Because he is a minor, as defined under Wis. Stat. Ann. § 125.02(20m) (West 1993), Jose is violating Wis. Stat. Ann. § 346.93 (West 1993) by transporting alcoholic beverages in his car. As the driver of the car, he is also violating Wis. Stat. Ann. § 346.935(3) (West 1993), which prohibits keeping in a motor vehicle when it is on a highway any alcoholic beverages in an open bottle or receptacle, or allowing any such beverages to be kept in the car.

If they are drinking in the car, Carlos and TJ are also violating several laws. Wis. Stat. Ann. § 346.935(1), (2) (West 1993) provides: "No person may drink alcohol beverages in any motor vehicle when the vehicle is upon a highway. No person may possess on his person, in a privately owned motor vehicle upon a public highway, any bottle or receptacle

containing alcohol beverages if the bottle or receptacle has been opened, the seal has been broken or the contents of the bottle or receptacle have been partially removed."

If Carlos is providing the alcohol to TJ, he is violating Wis. Stat. Ann. § 125.07(1) (West 1993), which states: "No person may procure for, sell, dispense or give away any alcohol beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age." For such violation he is subject to a forfeiture of up to \$500 for a first offense, and increased penalties for subsequent offenses. In addition, he is contributing to the delinquency of a minor, a Class A misdemeanor under Wis. Stat. Ann. § 948.40 (West 1993).

If TJ obtains the alcohol himself, he is violating several subsections of Wis. Stat. Ann. § 125.07 (West 1993) on alcoholic beverage control: subsection (4)(a)1, which prohibits any underage person from procuring or attempting to procure alcoholic beverages from any licensee or permittee; subsection (4)(a)4, which prohibits misrepresenting age for the purpose of receiving alcoholic beverages from a licensee or permittee; and subsection (4)(b), which prohibits any underage person from knowingly possessing or consuming alcoholic beverages. For such violations, he may be subject for a first offense to a forfeiture of up to \$250, suspension of his driving privileges, mandated participation in a supervised work program, or a combination of these penalties. For subsequent offenses, the penalties increase.

6. Is Dr. Melrose committing any violation by prescribing painkillers without conducting an examination or determining need?

Dr. Melrose is violating not only state but federal law. Wis. Stat. Ann. § 448.01(11) (West 1993) defines "unprofessional conduct" as "those acts or attempted acts of commission or omission defined as unprofessional conduct by the [medical examining] board under the authority delegated to the board by § 15.08(5)(b) and any act by a physician...in violation of ch. 161 or 450." Chapter 161 is Wisconsin's Uniform Controlled Substances Act. If Dr. Melrose prescribes the drugs without verifying medical need, the prescription is not valid and his actions may constitute an unlawful delivery of a controlled substance, a violation of Wis. Stat. Ann. § 161.41(1) (West 1993). Under U.S. law 21 U.S.C.A. § 829 (West 1993), a physician must have a legitimate medical purpose for dispensing drugs, and the act of dispensing or prescribing drugs should be within the usual course of professional practice. U.S. v. Varma, 691 F.2d 460 (1982); U.S. v. Jamieson, 605 F.Supp. 119 (1985).

Dr. Melrose's patients, if they do not provide to him a bona fide reason for needing the painkillers, may also be breaking the law. Wis. Stat. Ann. § 161.43(1)(a) (West 1993) states:

"It is unlawful for any person [t]o acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge" and § 161.43(3) prohibits possession or attempted possession of a controlled substance except by valid prescription. Federal law 21 U.S.C.A. § 843 (West 1993) similarly prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge, and 21 U.S.C.A. § 844 (West 1993) prohibits simple possession of a controlled substance unless such substance was obtained by valid prescription.

7. Is Danielle violating any law by taking only one or two pills from someone else's prescription?

Danielle is violating several laws. First, she is stealing. Wis. Stat. Ann. § 943.20(1)(a) (West 1993) states that whoever "[i]ntentionally takes and carries away, uses, transfers, conceals, or retains possession of movable property of another without his consent and with intent to deprive the owner permanently of possession of such property" commits theft. The penalty for theft depends on the value of the stolen property; if the value of the property does not exceed \$1,000, the offense is a Class A misdemeanor punishable by a fine of up to \$10,000 or imprisonment of up to nine months, or both; if the value is between \$1,000 and \$2,500, the offense is a Class E felony punishable by a fine of up to \$10,000 or imprisonment of up to two years, or both; if the value exceeds \$2,500, the offense is a Class C felony punishable by a fine of up to \$10,000 or imprisonment of up to 10 years, or both. Wis. Stat. Ann. §§ 943.20(3), 939.50(3), 939.51(3) (West 1993).

More seriously, Danielle is violating state and federal drug-control laws by stealing controlled substances. Wis. Stat. Ann. § 161.43(1)(a) (West 1993) states: "It is unlawful for any person [t]o acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge." Danielle's actions may be interpreted as deception or subterfuge. In addition, she is violating Wis. Stat. Ann. § 161.43(3), which prohibits possession or attempted possession of a controlled substance except by valid prescription.

Danielle is also violating U.S. law under 21 U.S.C.A. § 843 (West 1993), which prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge, and 21 U.S.C.A. § 844 (West 1993), which prohibits simple possession of a controlled substance unless such substance was obtained by prescription. The seriousness of her crime under these drug-control codes will depend on the type of drugs she takes from the customers' prescriptions and how she uses them.

8. Is Renee breaking state law even though she is not selling the drugs herself?

Even though she is not selling the drugs directly, Renee is violating several state and federal laws. She is violating several subsections of Wis. Stat. Ann. § 161.41 (West 1993): subsection (1), which prohibits the manufacture or delivery of a controlled substance; subsection (1m), which prohibits possession with intent to manufacture or deliver a controlled substance; and subsection (3), which prohibits possession or attempted possession of a controlled substance. By having her daughter make the deliveries on school grounds, she is violating Wis. Stat. Ann. § 161.49(1) (1993), which prohibits distribution of or possession with intent to distribute a controlled substance on or near certain places, including parks, youth or community centers, any public or private school, or while on or near a school bus. In addition, using her daughter in drug trafficking constitutes solicitation of a child to commit a felony. Wis. Stat. Ann. § 948.35 (West 1993).

By using her young daughter in drug trafficking, Renee is also contributing to the delinquency of a minor. Wis. Stat. Ann. § 948.40 (West 1993). This offense is a Class A misdemeanor. Her conduct may also constitute child neglect, defined under Wis. Stat. Ann. § 48.981(1)(d) as "failure, refusal or inability on the part of a parent, guardian, legal custodian or other person exercising temporary or permanent control over a child, for reasons other than poverty, to provide necessary food, clothing, medical or dental care or shelter so as to seriously endanger the physical health of the child." Child neglect is a Class A misdemeanor under Wis. Stat. Ann. § 948.21 (West 1993). A Class A misdemeanor is punishable by a fine of up to \$10,000 or imprisonment of up to nine months, or both. Wis. Stat. Ann. § 939.51 (West 1993). If the child is mentally or emotionally damaged by her contact with drug trafficking, Renee may be guilty of causing mental harm to a child, a Class C felony, or of child abuse. Wis. Stat. Ann. §§ 948.04, 48.981(1)(a) (West 1993). Such conduct may form the basis for involuntary termination of Renee's parental rights under Wis. Stat. Ann. § 48.415(5) (West 1993).

Renee is also violating federal statutes such as 21 U.S.C.A. § 841 (West 1993), prohibiting possession of a controlled substance with the intent to manufacture, distribute or dispense such substance; 21 U.S.C.A. § 844 (West 1993), prohibiting simple possession of a controlled substance; and 21 U.S.C.A. § 861 (West 1993), prohibiting the knowing and intentional use of any person under 18 years of age to violate any federal drug control provision.

Renee may also be guilty of conspiracy under Wis. Stat. Ann. §§ 161.41(1x) and 939.31 (West 1993). Conspiracy is punishable by imprisonment or fine or both, not to exceed the maximum punishment provided for the completed crime. If Renee

is participating in a drug conspiracy, she may also be violating federal law under 18 U.S.C.A. § 371 (West 1993), which prohibits conspiracy to commit any offense against the United States, and 21 U.S.C.A. § 846 (West 1993), which prohibits any attempt or conspiracy to commit any violation of federal drug-control statutes.

In addition, Renee could receive heavier sentencing under federal statutes. Under 21 U.S.C.A. § 859 (West 1993), the distribution of a controlled substance to a person under 21 years of age is subject to increased penalties. The United States expressed its concern with the importance of protecting children from drug trafficking under 21 U.S.C.A. § 860 (West 1993), which imposes heavier prison sentences in cases involving the distribution or manufacture of controlled substances in the proximity of schools, playgrounds, or youth centers. 18 U.S.C.A. App. 4 § 3B1.3 (West 1993) also provides for increased sentences in cases of abuse of position of trust, as in a drug trafficking defendant's involvement of her young daughter in the drug trade. U.S. v. Ledesma, 979 F.2d 816 (1992).

9. Did Jim violate any law other than those regarding controlled substances?

The state legislature has not yet created any law dealing specifically with the transmission of the HIV under such circumstances nor has it arisen in the state courts. Under the Model Penal Code, however, such behavior could constitute simple or aggravated assault or the attempt thereof, or reckless endangerment; under certain extreme situations, it could be construed as murder. See Gene Schultz, AIDS: Public Health and the Criminal Law, 7 St. Louis U. Pub. L. Rev. 65 (1988); Roger N. Braden, AIDS: Dealing With the Plague, 19 N. Ky. L. Rev. 277 (1992). In some cases, it has been suggested that the HIV virus provides a deadly weapon. Cf. Brock v. State, 555 So.2d 285 (Ala. Crim. App. 1989).

Jim's companion Andre, because of his role in Jim's death by overdose, may be charged with first-degree reckless homicide under Wis. Stat. Ann. § 940.02(2)(a)3.(b) (West 1993), which states: "Whoever causes the death of another human being under any of the following circumstances is guilty of a Class B felony: By administering or assisting in administering a controlled substance classified in schedule I or II under ch. 161, without lawful authority to do so, to another human being and that human being dies as a result of the use of the substance."

10. Has the bartender or the owner at Bulldog's Bar and Grill violated any law?

Given Su's clearly intoxicated state, the bartender and the owner may be guilty under Wis. Stat. Ann. § 125.07(2)(a) (West 1993), which provides: "No person may procure for, sell,

## Wisconsin Law

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dispense or give away alcohol beverages to a person who is intoxicated. No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with a person who is intoxicated." Such violation is punishable by a fine of not less than \$100 nor more than \$500 or imprisonment for not more than 60 days or both. Both may be liable for damages to a third party if Su's drunkenness should result in an accident. The act of selling liquor to an intoxicated person is not too remote to be proximate cause of injury to a third party. overruling Denge v. Feierstein, 222 Wis. 199, 268 N.W. 210; Seibel v. Leach, 233 Wis. 66, 288 N.W. 774, and Farmers Mutual Automobile Ins. Co. v. Gast, 17 Wis.2d 344, 117 N.W.2d 347. Sorensen by Kerscher v. Jarvis (1984) 350 N.W.2d 108, 119 Wis.2d 627.

Lesson 2

**CRIMINAL JUSTICE STATISTICS:**  
**DRUG AND ALCOHOL RELATED OFFENSES**  
**UNIFORM CRIME REPORT DATA OF 1990--CRIME IN THE UNITED STATES**

According to the Uniform Crime Report of 1990, 68% of the drug abuse violators were arrested for possession of heroin, cocaine or a narcotic derivative. A little over 31% of drug arrests were for the sale and manufacture of drugs.

Out of the 14,195,100 total number of arrests that occurred in 1990, drug abuse violations accounted for 1,089,500, driving under the influence comprised 1,810,800, and liquor law violations represented 714,700 of the total.

**1981-1990 Ten Year Trend**

**Arrests for Drug Abuse Violations**

In 1981, the total number of arrests for drug abusers under the age of 18 was 69,383. On the other hand in 1990, the total number was 50,435. This represents a 27.3% decrease in the number of arrests for persons under the age of 18. However, the number of arrests for persons over the age of 18 represent an 89.9% increase from 332,733 in 1981 to 631,932 in 1990.

**Liquor Law Violations**

For persons over the age of 18, the number of arrests for liquor law violations have dramatically increased to 61% from 218,079 in 1981 to 351,064 in 1990. However, the number of arrests for persons under the age of 18 has decreased to less than 0.4%.

♦ ♦ ♦

**Criminal Victimization in the United States, 1990**  
**A National Crime Victimization Survey Report, February, 1992**

**Percent Distribution of Victimizations by Perceived Drug or Alcohol Use by Offender:**

- ♦ Of the 130,260 total rapes reported by victims to police, 49.8% were believed to be committed by someone under the influence of drugs or alcohol.
- ♦ Of a total of 1,149,710 reported robberies, 24.2% involved an offender under the influence of drugs or alcohol.
- ♦ Of 1,600,760 aggravated assaults committed 40% were committed by people under the influence of drugs.
- ♦ Of the 3,128,130 simple assaults reported, 32.9% were perpetrated by someone perceived to be under the influence of drugs or alcohol.

## Wisconsin Law

### Lesson 4

#### FEDERAL SCHEDULE (answers to handout 3)

| DRUG         | SCHEDULE             |
|--------------|----------------------|
| heroin       | schedule 1           |
| beer         | not a scheduled drug |
| vodka        | not a scheduled drug |
| nitrate      | not a scheduled drug |
| amphetamines | schedule 3           |
| caffeine     | not a scheduled drug |
| marijuana    | schedule 1           |
| crack        | schedule 2           |
| scotch       | not a scheduled drug |
| MSG          | not a scheduled drug |
| cocaine      | schedule 2           |
| glue         | not a scheduled drug |

#### FEDERAL PENALTIES BY SCHEDULE FOR POSSESSION

| SCHEDULE         | MAX. PRISON | MAX. FINE | MAX. TOTAL       |
|------------------|-------------|-----------|------------------|
| schedule 1       | 15 years    | \$25,000  | 15yrs + \$25,000 |
| schedule 2       | 15 years    | \$25,000  | 15yrs + \$25,000 |
| schedule 3       | 5 years     | \$15,000  | 5yrs + \$15,000  |
| schedule 4       | 3 years     | \$10,000  | 3yrs + \$10,000  |
| schedule 5       | 1 year      | \$ 5,000  | 1yr + \$ 5,000   |
| unscheduled drug | n/a         | n/a       | n/a              |

The penalty doubles if the defendant has a previous conviction for a schedule law violation.

In order for a drug to be a narcotic, it must be a derivative of opium. All narcotics contain opium or opium derivatives, ie: heroin.

Malt beverages such as beer are not included in the scheduling process. They are controlled by liquor laws.

Information from 21 U.S.C.A. § 841 (West 1981).

# Wisconsin Law

| States | Heroin | Cocaine | Crack | Marijuana | Amphetan<br>ine |
|--------|--------|---------|-------|-----------|-----------------|
|--------|--------|---------|-------|-----------|-----------------|

|                            |         |         |         |                                                                                |            |
|----------------------------|---------|---------|---------|--------------------------------------------------------------------------------|------------|
| Alabama                    | sch 1   | sch 2   | sch 2   | sch 1                                                                          | sch 3      |
| Alaska                     | sch 1A  | sch 2A  | sch 2A  | sch 3A                                                                         | sch 4A     |
| Arizona                    | sch 1   | sch 2   | sch 2   | sch 1                                                                          | sch 2      |
| Arkansas                   | sch 1   | sch 2   | sch 2   | sch 1                                                                          | not listed |
| California                 | sch 1   | sch 2   | sch 2   | sch 1                                                                          | sch 2      |
| Colorado                   | sch 1   | sch 2   | sch 2   | sch 1                                                                          | sch 2      |
| Connecticut                | sch 1   | sch 2   | sch 2   | sch 1                                                                          | sch 3      |
| Delaware                   | sch 1   | sch 2   | sch 2   | sch 1                                                                          | sch 2      |
| D.C.                       | sch 1   | sch 2   | sch 2   | sch 2                                                                          | sch 2      |
| Florida                    | sch 1   | sch 2   | sch 2   | sch 1                                                                          | sch 2      |
| Georgia                    | sch 1   | sch 2   | sch 2   | sch 1 <sup>1</sup>                                                             | sch 2      |
| Hawaii                     | sch 1   | sch 2   | sch 2   | sch 1                                                                          | sch 2      |
| Idaho                      | sch 1   | sch 2   | sch 2   | sch 1                                                                          | sch 2      |
| Illinois                   | sch 1   | sch 2   | sch 2   | listed under<br>its act: the<br>Cannabis<br>Control Act, 56<br>1/2 §701 et seq | sch 2      |
| Indiana                    | sch 1   | sch 2   | sch 2   | sch 1                                                                          | sch 2      |
| Iowa                       | sch 1   | sch 2   | sch 2   | sch 1                                                                          | sch 2      |
| Kansas                     | sch 1   | sch 2   | sch 2   | sch 1                                                                          | sch 1      |
| Kentucky                   | sch 1   | sch 2   | sch 2   | sch 1                                                                          | sch 2      |
| Louisiana                  | sch 1   | sch 2   | sch 2   | sch 1                                                                          | sch 2      |
| Maine <sup>2</sup>         | sch W   | sch W   | sch W   | sch W & Z                                                                      | sch W      |
| Maryland                   | sch 1   | sch 2   | sch 2   | sch 1                                                                          | sch 1      |
| Massachusetts <sup>3</sup> | class A | class B | class B | class D                                                                        | class B    |
| Michigan                   | sch 1   | sch 2   | sch 2   | sch 1                                                                          | sch 2      |
| Minnesota                  | sch 1   | sch 2   | sch 2   | sch 1                                                                          | sch 2      |
| Mississippi                | sch 1   | sch 2   | sch 2   | sch 1                                                                          | sch 2      |
| Missouri                   | sch 1   | sch 2   | sch 2   | sch 1                                                                          | sch 2      |
| Montana                    | sch 1   | sch 2   | sch 2   | sch 1                                                                          | sch 2      |

<sup>1</sup> Must have more than 15% THC (tetrahydrocannabinol), the chemical in the cannabis plant.

<sup>2</sup> Maine schedules its drugs under an alphabetical category: W, X, Y & Z. The schedules are similar to other state categorizations.

<sup>3</sup> Massachusetts calls their schedules classes, but they are the same thing.

# Wisconsin Law

| States | Heroin | Cocaine | Crack | Marijuana | Amphetan<br>ine |
|--------|--------|---------|-------|-----------|-----------------|
|--------|--------|---------|-------|-----------|-----------------|

|                     |       |       |       |                                                                                                                   |       |
|---------------------|-------|-------|-------|-------------------------------------------------------------------------------------------------------------------|-------|
| Nebraska            | sch 1 | sch 2 | sch 2 | sch 1                                                                                                             | sch 2 |
| Nevada <sup>4</sup> | sch 1 | sch 2 | sch 2 | sch 1                                                                                                             | sch 3 |
| New Hampshire       | sch 1 | sch 2 | sch 2 | sch 1                                                                                                             | sch 3 |
| New Jersey          | sch 1 | sch 2 | sch 2 | sch 1                                                                                                             | sch 3 |
| New Mexico          | sch 1 | sch 2 | sch 2 | sch 1 & 2                                                                                                         | sch 2 |
| New York            | sch 1 | sch 2 | sch 2 | sch 1                                                                                                             | sch 2 |
| North Carolina      | sch 1 | sch 2 | sch 2 | NC has a sixth<br>schedule which<br>incl. marijuana                                                               | sch 2 |
| North Dakota        | sch 1 | sch 2 | sch 2 | sch 1                                                                                                             | sch 2 |
| Ohio                | sch 1 | sch 2 | sch 2 | sch 1                                                                                                             | sch 2 |
| Oklahoma            | sch 1 | sch 2 | sch 2 | sch 1                                                                                                             | sch 2 |
| Pennsylvania        | sch 1 | sch 2 | sch 2 | sch 1                                                                                                             | sch 2 |
| Puerto Rico         | sch 1 | sch 2 | sch 2 | sch 1                                                                                                             | sch 3 |
| Rhode Island        | sch 1 | sch 2 | sch 2 | sch 1                                                                                                             | sch 2 |
| South Carolina      | sch 1 | sch 2 | sch 2 | sch 1                                                                                                             | sch 2 |
| South Dakota        | sch 1 | sch 2 | sch 2 | sch 1                                                                                                             | sch 2 |
| Tennessee           | sch 1 | sch 2 | sch 2 | sch 2, but only<br>for certified<br>patients under<br>the Controlled<br>Substances<br>Therapeutic<br>Research Act | sch 2 |
| Texas               | sch 1 | sch 2 | sch 2 | sch 1                                                                                                             | sch 2 |
| Utah                | sch 1 | sch 2 | sch 2 | sch 1                                                                                                             | sch 2 |
| Vermont             | sch 1 | sch 2 | sch 2 | sch 1                                                                                                             | sch 3 |
| Virginia            | sch 1 | sch 2 | sch 2 | not listed, but<br>liquid<br>marijuana or<br>hashish oil is<br>listed as sch 1                                    | sch 2 |
| Washington          | sch 1 | sch 2 | sch 2 | sch 1                                                                                                             | sch 2 |
| West Virginia       | sch 1 | sch 2 | sch 2 | sch 1                                                                                                             | sch 2 |
| Wisconsin           | sch 1 | sch 2 | sch 2 | sch 1                                                                                                             | sch 2 |

<sup>4</sup> While Nevada does not specifically name drugs under its five schedules, but instead lists the specific tests to determine under which schedule a drug belongs § 453.2182 says that the state will use 21 USC as a guide for scheduling. The state merely reserves the right to reschedule any controlled substance as it sees fit according to the tests set out in 453.166, et. seq.

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Wisconsin Law

| States | Heroin | Cocaine | Crack | Marijuana | Amphetam<br>ine |
|--------|--------|---------|-------|-----------|-----------------|
|--------|--------|---------|-------|-----------|-----------------|

|         |       |       |       |       |       |
|---------|-------|-------|-------|-------|-------|
| Wyoming | sch 1 | sch 2 | sch 2 | sch 1 | sch 2 |
|---------|-------|-------|-------|-------|-------|

## Wisconsin Law

### Lesson 5

| OFFENSE/SUBSTANCE                                                                                                      | SENTENCE                                                                 |
|------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|
| First Offense: Cocaine - Possession With Intent To Distribute - 5 kg                                                   | • imprisonment for 10-30 years, and<br>• fine of \$25,000 to \$1 million |
| First Offense: Trace of Heroin - Possession of 1 kg or more of a mixture with a small, but detectable amount of heroin | • imprisonment for up to 1 year, and/or<br>• fine up to \$5000           |
| First Offense: Codeine - Possession - 200 mg                                                                           | • imprisonment for up to 1 year, and/or<br>• fine up to \$5000           |
| Second Offense: Marijuana - Possession - 50 kg                                                                         | • imprisonment for up to 2 years, and/or<br>• fine up to \$10,000        |
| Third Offense - Methamphetamine - Possession - 100 g                                                                   | • imprisonment for up to 1 year, and/or<br>• fine not to exceed \$5000   |

Cite: Wi. Stat. Ann. §161.41.

#### Current Federal Penalties:

Group 1 and Group 2: . . . person shall be sentenced to prison which may not be less than 10 years or more than life and a fine not to exceed 4 million dollars.

Group 3: . . . person shall be sentenced to a term of imprisonment of not more than one year, a fine not exceed \$250,000 in the case of an individual.

Group 4: . . . person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed \$500,000.

Group 5: . . . person shall be sentenced mandatory life imprisonment without release and fine not to exceed \$8 million.

Cite: 21 U.S.C. § 841 (1992).

## Wisconsin Law

### Lesson 6 & 7

1. What does DWI stand for?

Driving while intoxicated.

2. What does DUI stand for?

Driving under the influence. Under §346.63 it is illegal for a person to drive while under the influence of an intoxicant or with a blood alcohol concentration of 0.10 or more. Under the same section if a person under 19 years of age s/he may not drive while her/his blood alcohol concentration is more than 0.0 but not more than 0.1.

3. In terms of penalties, is being convicted of DWI more serious than being convicted of DUI?

There is no distinction between the two offenses under Wisconsin law.

4. What are the penalties for being convicted of DWI? DUI?

Under §346.65 if a person violates §346.63 the penalties are as follow:

| CONVICTION                          | PUNISHMENT                                                          |
|-------------------------------------|---------------------------------------------------------------------|
| first                               | • fine of \$150 to \$300                                            |
| second (within 5 years)             | • fine of \$300 to \$1000<br>• jail for between 5 days and 6 months |
| third (within 5 years)              | • fine of \$600 to \$2000, and<br>• jail for 30 days to 1 year      |
| fourth (within 5 years)             | • fine of \$600 to \$2000, and<br>• jail for 60 days to 1 year      |
| fifth & subsequent (within 5 years) | • fine of \$600 to \$2000, and<br>• jail for 6 months to 1 year     |

5. What is the penalty for refusing to submit to a breathalyzer test upon a police officer's reasonable request?

Under §343.305 a person who drives on the roads of Wisconsin is deemed to have given consent to a breath test. The penalties for refusal to take the test will be revocation of one's license for one year for the first refusal, two years for two refusals in five years, and three years for three or more refusals in five years.

6. What must a person's blood alcohol content (BAC) be before he/she is legally intoxicated?

Under §346.63 if a person's BAC is 0.10 s/he is legally intoxicated.

7. The legal limit for blood alcohol is lower for persons under the legal drinking age of 21. True or False?

True. Under Wisconsin law a minor's BAC between 0.0 and 0.10 indicates legal intoxication.

8. An open container of alcohol can be in your car if you are 21 or over. True or False?

False. Under §346.93 no person may knowingly possess or have in his/her control any alcohol beverage in any motor vehicle. Section 346.935 specifically prohibits possession of open containers in a car while on the highway.

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## Wisconsin Law

### Lesson 9

Although the drinking age is 21 in all 50 states (meaning specifically that the sale of alcohol to minors is prohibited), the laws on teenage drinking vary from state to state. The laws vary in regard to whether they include prohibition of the purchase of alcohol, the attempt to purchase alcohol, the consumption of alcohol and the possession of alcohol. According to the March 11, 1993 Safety Recommendation report of the National Transportation Safety Board,

- Five states (DE, FL, MT, NH & NY) and the District of Columbia do not prohibit the purchase of alcohol by minors.
- West Virginia and the District of Columbia do not prohibit public possession of alcohol by minors.
- 23 states (AK, AR, DE, DC, FL, GA, RI, IL, IA, LA, ME, MD, MI, MS, MT, NV, NH, NY, SC, TX, UT, VT, VA) do not prohibit minors from attempting to purchase alcohol.
- 21 states (AR, CO, CT, FL, GA, HI, IA, KY, LA, MA, MS, MO, NE, NH, NM, NC, OR, SC, VT, WV, WY) do not prohibit alcohol consumption by minors.
- 16 states (AR, CA, CO, HI, KY, LA, ME, MI, NH, NY, NC, OK, SD, VA, WA, WY) do not prohibit minors from misrepresenting their age in order to purchase alcohol.
- 19 states (AL, AR, CO, DE, DC, IA, KS, LA, MD, MN, MT, NJ, OR, PA, SC, UT, VA, WA, WI) do not prohibit minors from presenting false ID to purchase alcohol.

In addition, most states do not prohibit minors from driving with alcohol in their blood unless their blood alcohol content reaches the adult legal limit, which is .10 percent in most states. Fifteen states, however, have amended their laws to lower for minors the permitted blood alcohol content while driving. These laws vary according to the age under which minors must be in order for the lower blood alcohol content to apply. Here is the layout for state laws on blood alcohol content for minors while driving:

| <u>0.00 BAC</u> | <u>0.01 BAC</u> | <u>0.02 BAC</u> | <u>0.04 BAC</u> | <u>0.05 BAC</u> | <u>0.06 BAC</u> |
|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| AZ (<21)        | NJ (<21)        | ME (<21)        | RI (<21)        | CA (<18)        | GA (<18)        |
| NC (<19)        |                 | MD (<21)        | NH (<21)        | NM (<18)        |                 |
| OR (<21)        |                 | OH (<18)        |                 |                 |                 |
| UT (<21)        |                 | VT (<18)        |                 |                 |                 |
| WI (<18)        |                 |                 |                 |                 |                 |

A number of states have tried to cut down on teenage driving accidents by implementing nighttime driving restrictions. The following states have some form of curfew for teenage driving:

|     |                                                                        |
|-----|------------------------------------------------------------------------|
| ID: | minors <16 can drive during the daytime only                           |
| IL: | minors <17 cannot drive between 11pm-6am Mon-Thur and 12am-6am Fri-Sun |
| LA: | minors <15 cannot drive between 11pm-6am Mon-Thur and 12am-6am Fri-Sun |
| MD: | minors <16 cannot drive between 12am-5am                               |
| MA: | minors <18 cannot drive between 1am-4am                                |
| NY: | minors <18 cannot drive between 9pm-5am                                |
| PA: | minors <18 cannot drive between 12am-5am                               |
| SD: | minors <16 cannot drive between 8pm-6am.                               |